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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,318	06/13/2005	Anna Ingrid Kristina Berggren	133087.10101(100940-1PUS)	4032
52286	7590	10/17/2007		
Pepper Hamilton LLP 500 Grant Street One Mellon Bank Center, 50th Floor Pittsburgh, PA 15219-2502			EXAMINER MORRIS, PATRICIA L	
			ART UNIT	PAPER NUMBER
			1625	
			MAIL DATE	DELIVERY MODE
			10/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/538,318

**Applicant(s)**

BERGGREN ET AL.

**Examiner**

Patricia L. Morris

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, the instances wherein R<sup>1</sup> and R<sup>2</sup> are phenyl and R<sup>3</sup> represents non-heterocyclic groups.

Group II, the instances wherein R<sup>1</sup> and R<sup>2</sup> are phenyl and R<sup>3</sup> represents -(CH<sub>2</sub>)<sub>t</sub>-piperidine.

Group III, the instances wherein R<sup>1</sup> is phenyl, R<sup>2</sup> is pyridine and R<sup>3</sup> represents non-heterocyclic groups.

Group IV, the instances wherein R<sup>1</sup> and R<sup>2</sup> are pyridine and R<sup>3</sup> represents non-heterocyclic groups.

Group V, the instances wherein R<sup>1</sup> and R<sup>2</sup> are phenyl and R<sup>3</sup> represents -(CH<sub>2</sub>)<sub>t</sub>-morpholine.

Group VI, any compounds not grouped in the above groups because claim 1 is too vague to further group.

Group VII, Claim 7 and 11, drawn to multiple uses.

Group VIII, Claim 8, drawn to a process.

Group IX, Claim 9, drawn to intermediates.

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Group X, Claim 10, drawn to compositions containing an additional active ingredient.

The inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Groups I-VI and VII and VIII are unrelated because they differ in scope. Applicants' own proviso clauses destroy any unity of invention since it shows that not all the compounds have the same use or prepared in the same manner.

Groups I-VI and X are unrelated because the compounds of Groups I-VI do not require an additional active ingredient for their use.

Groups I-VI and IX are drawn to chemically different compounds. Further, the intermediates of Group IX have different utilities, such as herbicides, insecticides, fungicides, etc.

Due to the numerous variables in Z, R<sub>3</sub>, R<sub>4</sub> etc., and their widely divergent meanings, and the numerous uses, a precise listing of inventive groups cannot be made. Illustrative of different inventive concepts may be made by reference to the compounds in the Examples of the instant application, as for example:

the compounds of

- I. example 1,
- II. example 2,
- III. example 11,
- IV. compound 13, etc.,

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The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The compounds claimed contain a thiazole group which does not define a contribution over the prior art. Applicants' own proviso clauses destroy any unity of invention. The substituents on the structure vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper.

In the event of any election of either Groups I, II, III, IV V, VI or IX, applicants are required to elect a single compound.

With the election of a specific exemplified compound, a generic concept, will be identified by the examiner as the inventive group for examination.

Claims 1-3 and 5 will be examined to the extent readable on the elected compounds.

In the event of an election of Group VII, applicants are requested to elect one method of use, *i.e.*, a specific disease.

In the event of an election of Group XI, applicants are requested to elect a single disclosed mixture, *i.e.*, a single compound plus the additional active ingredient.

Because these inventions lack unity of invention for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter restriction for examination purposes as indicated is proper.

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Applicant may file the divisional subject matter noted in divisional applications. If applicant wishes a generic expression of the elected invention the claims here need be amended to reflect that election.

This restriction requirement is being written as previous experience has indicated that with Foreign applicants and the inherent time delays, applicants' representative is better able to make an informed, correct, election of the invention applicants would wish to have prosecuted here if applicants are given the opportunity to see the restriction requirement laid out, and given the time to make an informed decision.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

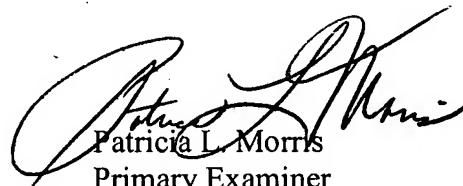
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Morris whose telephone number is (571) 272-0688. The examiner can normally be reached on Mondays through Fridays.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L. Morris  
Primary Examiner  
Art Unit 1625

plm  
October 15, 2007